

Exhibit 9

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROBERT HEATH AND CHERYL)

FILLEKES,)

Plaintiffs, on behalf of)

themselves and others)

similarly situated,)

vs.) Case No. 15-cv-01824-BLF

GOOGLE, INC., a Delaware)

corporation,)

Defendant.)

Deposition of Cheryl Ann Fillekes
San Francisco, California
Thursday, December 17, 2015
Volume I

Reported by:

JOANNE M. FARRELL, RPR, CRR

CSR Nos. 4838(CA) 506(HI) 507(NM)

Job No. 2203673

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<p>1 BY MR. McINERNEY:</p> <p>2 Q. I just want to make clear if you do make</p> <p>3 changes, I can comment on them.</p> <p>4 A. Okay.</p> <p>5 Q. Like if you answer yes to a question and you</p> <p>6 change it to no, I can point out that Ms. Fillekes</p> <p>7 changed her testimony.</p> <p>8 A. Okay.</p> <p>9 Q. Now, it's really important also that you don't</p> <p>10 speculate to any questions. So if I ask you a question</p> <p>11 and you're just guessing as to what the answer is, I'm</p> <p>12 not really interested in that. I just want to know</p> <p>13 information that's based on your personal knowledge,</p> <p>14 personal knowledge being things that you saw, you heard,</p> <p>15 you know about, somebody told you about that sort of</p> <p>16 thing.</p> <p>17 Do you understand the difference between</p> <p>18 guessing and testifying based on personal knowledge?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Can you think of any reason why today you</p> <p>21 can't give your best and most accurate testimony?</p> <p>22 A. I cannot think of any reason why --</p> <p>23 Q. Okay.</p> <p>24 A. -- I cannot give -- yeah.</p> <p>25 Q. So you're under no medication or any other</p> <p style="text-align: right;">Page 10</p>	<p>1 H-E-R-M-A-N, no middle name.</p> <p>2 Q. How long have you been married to Mr. Herman?</p> <p>3 A. Since 1999.</p> <p>4 Q. Have you resided together that whole time?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And I'm sorry I have to ask you this but,</p> <p>7 I do in all depositions, have you been convicted of a</p> <p>8 felony?</p> <p>9 A. Never.</p> <p>10 Q. All right. Now, you understand you're a</p> <p>11 plaintiff in this lawsuit?</p> <p>12 Do you understand that the term "plaintiff"?</p> <p>13 A. Right.</p> <p>14 Q. You seem confused.</p> <p>15 A. No, I'm just trying to parse the question.</p> <p>16 Q. Okay.</p> <p>17 A. I'm sorry.</p> <p>18 Q. I apologize. It wasn't meant to be a trick</p> <p>19 question.</p> <p>20 Do you understand you're a plaintiff in this</p> <p>21 lawsuit?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Okay. Why do you believe you were not hired at</p> <p>24 Google?</p> <p>25 A. I was recruited for engineering roles at Google</p> <p style="text-align: right;">Page 12</p>
<p>1 intoxicants that may impact your ability to testify</p> <p>2 truthfully today?</p> <p>3 A. Just coffee.</p> <p>4 Q. Okay. But coffee doesn't impact your ability to</p> <p>5 testify truthfully, right?</p> <p>6 A. Correct.</p> <p>7 Q. Okay.</p> <p>8 A. Okay.</p> <p>9 Q. Now, where do you reside currently?</p> <p>10 A. 1435 Baum Road, that's bravo alpha uniform mike,</p> <p>11 Road, St. Johnsville, New York 13452.</p> <p>12 Q. Do you have any plans to move from that Baum</p> <p>13 Road address?</p> <p>14 A. Not currently.</p> <p>15 Q. Have you had discussions about possibly moving?</p> <p>16 A. My husband and I have discussed the case where a</p> <p>17 terrific job opportunity came up for either of us in New</p> <p>18 York City or Boston, for example, and we have discussed</p> <p>19 the possibility of getting a small apartment in that area</p> <p>20 in order to commute to a job like that during the week.</p> <p>21 Q. Okay. So -- okay. And so then I take it you're</p> <p>22 married?</p> <p>23 A. Yes.</p> <p>24 Q. What's the name of your husband?</p> <p>25 A. My husband's name is Mark Herman, M-A-R-K,</p> <p style="text-align: right;">Page 11</p>	<p>1 four times and brought in for interviews after performing</p> <p>2 well on the phone screens and was told each of those four</p> <p>3 times that I had done well on the interviews and that my</p> <p>4 candidacy was being sent up to the committee, the hiring</p> <p>5 committee. And each time after sometimes a considerable</p> <p>6 delay, I heard that I had not been hired.</p> <p>7 There is no transparency over the process in</p> <p>8 committee, so in fact, I do not know.</p> <p>9 Q. All right. So what is your date of birth?</p> <p>10 A. August 29th, 1960.</p> <p>11 Q. Where were you born?</p> <p>12 A. Oyster Bay, New York.</p> <p>13 Q. That's where Roosevelt lived.</p> <p>14 A. (Witness nods head.)</p> <p>15 Q. Okay. That's one other thing, even though it</p> <p>16 wasn't a really important question, we both need to speak</p> <p>17 audibly, okay? So we have the court reporter is taking</p> <p>18 down what's being said, so it's important that when you</p> <p>19 answer a question you don't do it with a shake or a nod</p> <p>20 of your head, or anything like that, or a "huh-uh" or</p> <p>21 something like that. So you understand that?</p> <p>22 A. Yes, sir, Oyster Bay was the site of the</p> <p>23 residence of both.</p> <p>24 Q. Okay. Can you walk me through where you've</p> <p>25 resided since your birth in Oyster Bay, New York? And</p> <p style="text-align: right;">Page 13</p>

<p>1 interested. So I sent her -- I sent a message back 2 saying that I would like to talk to her about it. So 3 that started that process. 4 Q. Okay. Then what happened? 5 A. Well, then she handed me off to, I think, John 6 Wilson or somebody, and he then -- and there were 7 different people looking at me for different groups, I 8 think, is what was going on. I don't really know. But 9 then eventually, John Wilson set up an interview and I 10 was -- 11 Q. And I'm sorry, John Wilson, is he a recruiter? 12 A. He was a recruiter. 13 Q. Okay. 14 A. Or maybe he was a hiring manager. I'm not sure. 15 Q. Okay. 16 A. So -- 17 Q. And how did Svetlana get your name? Do you 18 know? 19 A. I don't know. 20 Q. Okay. Then what happened? You were starting to 21 say. 22 A. And he set up an interview and -- 23 Q. Telephone interview or in person? 24 A. Actually, I told them that I had already had a 25 telephone interview and they may have -- I don't remember</p> <p style="text-align: right;">Page 150</p>	<p>1 said "Oh, I'm handing this over to Karen Cutler now." 2 Now, this was in April of 2010. 3 And Karen sent me a note saying that she'd like 4 to talk to me on the telephone, and I -- we got together 5 on the telephone and on the telephone she said "Oh, 6 you're going to have to put the dates of graduation on 7 your resume." And I said "Well, you know my dates of 8 graduation from my previous application for the purposes 9 of verifying my graduation, the fact that I did get the 10 degrees." 11 And she said "Oh, no, but it has to be on your 12 resume, the one that we circulate for your interviews." 13 And I said "Well, why do my dates of graduation have to 14 be on my resume?" She said "Oh, so the interviewers can 15 see how old you are." 16 And I was so shocked by that statement. I wrote 17 it down, I -- and I told her "Oh, well, in that case, 18 could you please send me that request in writing?" 19 Q. Where did you write it down? 20 A. I wrote it down on my notes. 21 Q. Do you have your notes? 22 A. My notes are at home. 23 Q. So you do have a note that memorializes that? 24 A. Uh-huh. 25 MR. McINERNEY: We didn't get that in discovery,</p> <p style="text-align: right;">Page 152</p>
<p>1 if I did a second telephone interview because I thought I 2 referred back to the earlier one. They looked up my 3 notes for that. I think that's -- I can't say for sure, 4 though. 5 Q. Was there any discussion with Svetlana or John 6 Wilson about an actual job that you might be considered 7 for? 8 A. They said there were a number of positions. 9 Q. That's the full extent of what they said? 10 A. They said something about SRE roles, which are 11 Site Reliability Engineering roles. 12 Q. Okay. Did you learn what a Site Reliability 13 Engineer was? 14 A. They sent me links that I was able to read and 15 videos. They sent me resources with which I could learn 16 more. 17 Q. About? 18 A. SREs, yes. 19 Q. Okay. Then what? So you got contacted -- you 20 told them or John Wilson that you'd already done a screen 21 interview or phone interview? 22 A. Yeah. 23 Q. Then what happened? 24 A. Then I -- well, I had sent my CV to Svetlana and 25 who then, I suppose, maybe copied it to John. John then</p> <p style="text-align: right;">Page 151</p>	<p>1 Counsel, so I'd make a request on the record that you go 2 and produce that to us. 3 THE WITNESS: Uh-huh. 4 MR. KOTCHEN: You have that? He's asking if you 5 have the note that you wrote. 6 THE WITNESS: Oh, no, I wrote it down on a piece 7 of paper. 8 MR. KOTCHEN: Right. But do you have it at 9 home? Is it something you still have? 10 THE WITNESS: I haven't seen it in years. 11 MR. KOTCHEN: That's what he's asking. He's 12 asking you "Do you have it in your possession?" 13 THE WITNESS: Oh, okay. 14 MR. KOTCHEN: So why don't you all have a 15 dialogue about that. 16 THE WITNESS: I did chat about it online with my 17 friend Danhiel Baker. 18 BY MR. McINERNEY: 19 Q. Here's my question. I thought I was very clear. 20 Do you still have that document, that note? 21 A. Oh, no. 22 Q. Have you looked for it? 23 A. I haven't looked for it. 24 Q. So I'm going to request that you look for the 25 note.</p> <p style="text-align: right;">Page 153</p>